

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 41-50 remain pending. Claims 41, 49 and 50 are independent.

INTERVIEW CONDUCTED

Applicant thanks the Examiner for conducting an interview with applicant's representative on July 17, 2006.

§102 REJECTION – RELATED ART

Claims 41-50 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the Related Art as illustrated in Figures 1-5 of the present disclosure. Applicant respectfully traverses.

During the interview, the Examiner indicated that he broadly interpreted the phrase “formatting” as any process that modifies the defect list information. The Examiner then referred to Figure 4 of the present disclosure in which the Supplementary Spare Area (SSA) – allegedly equivalent to the second spare area as recited in the claims of the Related Art – is enlarged. According to the Examiner's logic, because the Related Art discloses changing the location information of the Supplementary Spare Area, the related art performs formatting as recited in the independent claims.

Applicant respectfully disagrees. First, it is improper for the Examiner to assume that the related art is a valid prior art.

Second, the situation that is depicted in Figure 4 of the present disclosure is merely an operation that occurs during normal reading and/or writing data from/to the optical disk. One of ordinary skill would clearly understand the difference between formatting as normally used in the art as opposed to the situation depicted in Figure 4. In other words, the Examiner's interpretation is unreasonably broad.

Nevertheless, independent claims 41, 49 and 50 are amended to clarify the invention. As recited in these claims, a new defect list is created to replace the old defect list when formatting occurs. This has support in at least paragraph [037] of the specification as originally filed. Applicant respectfully submits that the claims are distinguishable over all previously cited references and over the related art.

With the term "formatting" clarified, it is clear that the Related Art cannot teach or suggest the features of the claims. Applicant respectfully request that the rejection of claims 41-50 based on the Related Art be withdrawn.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a two (2) months extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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